

following message from the Senate:

The Senate having proceeded to reconsider the bill (S. 1864) entitled "An act to authorize payments by the Administrator of Veterans' Affairs on the purchase of automobiles or other conveyances by certain disabled veterans, and for other purposes." returned by the President of the United States with his objections, to the Senate, in which it originated, it was

*Resolved*, That the said bill do pass, two-thirds of the Senators present having voted in the affirmative.

The Clerk then read the President's veto message after which debate ensued until Mr. John E. Rankin, of Mississippi, moved the previous question. The previous question then being ordered, the Chair proceeded, stating:

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.<sup>(18)</sup>

**18.** U.S. Const. art. I, §7, clause 2:

"Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal,

## § 24. Demands

### *Precedence of Yeas and Nays Over Demand for Tellers*

#### **§ 24.1 A demand for the yeas and nays in the House under article I, section 5 of the Constitution takes precedence over a demand for tellers.**

On Dec. 10, 1963,<sup>(19)</sup> during consideration in the House of the conference report (and amendments remaining in disagreement) on the bill H.R. 8747, making appropriations for various independent ex-

and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return in which Case it shall not be a Law."

**19.** 109 CONG. REC. 23949, 23950, 23952, 88th Cong. 1st Sess.

ecutive offices, a motion was offered that the House insist on its disagreement to a Senate amendment. Mr. Harold C. Ostertag, of New York, then offered a preferential motion that the House recede from its disagreement to the Senate amendment and concur therein. The following proceedings then occurred:

THE SPEAKER: <sup>(20)</sup> The question is on the preferential motion offered by the gentleman from New York [Mr. Ostertag].

The question was taken; and on a division (demanded by Mr. Ostertag) there were—ayes 102, noes 102.

MR. [WILLIAM C.] CRAMER [of Florida]: Mr. Speaker, I ask for tellers.

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I ask for the yeas and nays.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. HALLECK: Mr. Speaker, we were standing for a teller vote. Can we not insist on the teller vote?

THE SPEAKER: The demand for the yeas and nays is a constitutional right and, therefore, would supersede the request for tellers.

The gentleman from Texas has demanded the yeas and nays.

The yeas and nays were ordered.

*Parliamentarian's Note:* Where both a division and the yeas and

nays are requested on a pending question, the Chair first entertains the demand for the yeas and nays, which has constitutional precedence over other forms of voting. See §14.1, *supra*.

### ***When in Order; Intervening Events***

**§ 24.2 A demand for the yeas and nays is in order despite the Chair's recognition of a Member offering a unanimous-consent request on a different question, providing that that Member seeking the yeas and nays has exercised due diligence in his efforts.**

On July 20, 1939,<sup>(1)</sup> the House agreed to a resolution (H. Res. 258) calling for a congressional investigation of the National Labor Relations Board. Immediately thereafter, the following occurred:

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move to reconsider the vote by which the resolution was agreed to and lay that motion on the table.

THE SPEAKER PRO TEMPORE: <sup>(2)</sup> Without objection, a motion to reconsider will be laid on the table.

MR. SMITH of Virginia: Mr. Speaker, I ask unanimous consent—

1. 84 CONG. REC. 9593, 76th Cong. 1st Sess.
2. James P. Richards (S.C.).

20. John W. McCormack (Mass.).

MR. [CLAUDE V.] PARSONS [of Illinois]: Mr. Speaker, I object, and ask for the yeas and nays on the motion to reconsider.

MR. SMITH of Virginia: Mr. Speaker, I make the point of order that the motion comes too late, as I had already proceeded with a unanimous-consent request.

MR. PARSONS: I was on my feet objecting, Mr. Speaker.

MR. SMITH of Virginia: I had already proceeded with a unanimous-consent request, and may I state that request, Mr. Speaker?

MR. PARSONS: Mr. Speaker, I was on my feet trying to get the attention of the Chair.

THE SPEAKER PRO TEMPORE: Does the gentleman from Illinois insist on his request for the yeas and nays?

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, the motion has already been carried and the gentleman from Virginia had been recognized to make another request. I demand the regular order, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The Chair will state to the distinguished minority leader that the gentleman from Illinois was on his feet at the time.

The gentleman from Illinois [Mr. Parsons] demands the yeas and nays.

MR. MARTIN of Massachusetts: Mr. Speaker, I demand we find out what the record shows.

MR. PARSONS: The gentleman saw me running down the aisle; and I was trying to get the attention of the Chair to object, and I did object.

THE SPEAKER PRO TEMPORE: The gentleman from Illinois was on his feet at the time.

The gentleman from Illinois demands the yeas and nays on the motion to lay on the table a motion to reconsider.

**§ 24.3 A Member's demand for the yeas and nays is in order notwithstanding the intervention of an objection to a voice vote on the grounds that a quorum was not present and the Chair's count of the House to ascertain the presence of a quorum where the Member exercises due diligence with respect thereto.**

On Nov. 2, 1967,<sup>(3)</sup> the Speaker Pro Tempore<sup>(4)</sup> put the question on the passage of a bill (S. 780) to amend the Clean Air Act. The question was taken; and the Chair announced that the ayes appeared to have it. Mr. John M. Ashbrook, of Ohio, then objected to the vote on the ground that a quorum was not present. The Chair counted in response to the Ashbrook objection and subsequently announced that a quorum was present.

Immediately thereafter, the following occurred:

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

3. 113 CONG. REC. 30999, 90th Cong. 1st Sess.

4. Charles M. Price (Ill.).

MR. [WAYNE L.] HAYS [of Ohio]: A point of order, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HAYS: Mr. Speaker, I would like to point out that the Chair had announced the vote, and then the gentleman from Ohio objected to the vote on the ground that a quorum was not present and made the point of order that a quorum was not present. The Chair counted a quorum. I would have thought the demand of the gentleman from Michigan came too late.

MR. GERALD R. FORD: Mr. Speaker, I was on my feet when the gentleman objected.

THE SPEAKER PRO TEMPORE: The gentleman from Michigan was on his feet as the Chair was counting, and the demand for the yeas and nays was in order, and the yeas and nays were ordered.

### ***Effect of Ordering of Alternative Voting Procedures***

#### **§ 24.4 The constitutional right of a Member to demand the yeas and nays in the House is not foreclosed by the ordering of tellers on the question, where the tellers have not taken their places and begun the count.**

On Dec. 9, 1970,<sup>(5)</sup> the Speaker having announced that the ayes appeared to have it on an amendment to a joint resolution (H.J.

5. 116 CONG. REC. 40704, 91st Cong. 2d Sess.

Res. 1413) intended to forestall a national railroad strike, Mr. William L. Springer, of Illinois, demanded tellers on the question. The Member's demand having been supported, tellers were ordered; and the Speaker appointed as tellers Mr. Harley O. Staggers, of West Virginia, and Mr. Springer.

The following proceedings then occurred:

MR. STAGGERS: Mr. Speaker, am I permitted to ask for a rollcall vote on this amendment? Can I demand a rollcall vote?

THE SPEAKER:<sup>(6)</sup> A rollcall vote demand is in order at the present time.

MR. STAGGERS: Mr. Speaker, I demand the yeas and nays.

THE SPEAKER: The gentleman from West Virginia demands a vote by a call of the yeas and nays which would be in order.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Is it in order after a vote by tellers has been ordered to demand a rollcall vote after the Speaker has announced that a teller vote had been ordered?

THE SPEAKER: The Chair will state that the demand for a rollcall vote before the tellers have taken their place and the beginning of the vote by tellers would be in order.

The gentleman from West Virginia demands the yeas and nays.

6. John W. McCormack (Mass.).

The yeas and nays were ordered.

***With Respect to Particular Motions***

**§ 24.5 Following a negative division vote on a motion that the House adjourn to a day certain, the simple motion to adjourn was held to take precedence over a demand for the yeas and nays on the former motion.**

On Feb. 15, 1950,<sup>(7)</sup> the House met at 12 o'clock noon, and shortly after a prayer offered by the Chaplain, the Journal of the previous day's proceedings was read.

Prior to the completion of that reading, however, Mr. John E. Rankin, of Mississippi, rose to a point of order—contending that the Journal had incorrectly recorded the events of the previous day. Mr. Rankin further contended that the Chair had ruled improperly in granting preference to a simple motion to adjourn over his request for the yeas and nays on a motion to adjourn to a day certain. The following discussion then occurred:

MR. RANKIN: . . . Now, Mr. Speaker, I call the Speaker's attention to the fact that on yesterday I asked for a vote on my motion that the House ad-

ourn until Thursday. While we were taking that vote the gentleman from Massachusetts [Mr. McCormack] moved that the House adjourn. The vote on my motion was interrupted; the motion to adjourn made by the gentleman from Massachusetts was given precedence and was voted on and agreed to.

I protest that that ruling was in flagrant violation of section 5360 of Hinds' Precedents, which states:

While a motion to adjourn takes precedence over other motions, yet it may not be put while the House is voting on another motion or while a Member has the floor in debate.

We had offered a motion to adjourn until a day certain. We were voting on it at that time. However, in violation of the rules of the House, the gentleman from Massachusetts was permitted to offer a motion that the House adjourn.

In order to keep the record straight I call that to the attention of the House, and I wish also to call attention to the fact that Jefferson's Manual has the following provision in section XXXIII relative to adjournment:

A motion to adjourn simply takes place of all others; for otherwise the House might be kept sitting against its will, and indefinitely. Yet this motion cannot be received after another question is actually put and while the House is engaged in voting.

I call that to the attention of the House in order to keep the record straight. My distinguished colleague from Mississippi [Mr. Williams], who was going along with me, also endeavored to secure a roll call on the motion to adjourn until Thursday. We were absolutely within the rules of the

7. 96 CONG. REC. 1805, 1806, 81st Cong. 2d Sess.

House and the motion to adjourn by the gentleman from Massachusetts [Mr. McCormack] was not in order.

THE SPEAKER:<sup>(8)</sup> The Chair does not agree with the gentleman. On the motion made by the gentleman, upon which there was a vote, there was a vote by division, and the motion was lost.

MR. RANKIN: Mr. Speaker, I asked for a roll-call vote on that motion.

THE SPEAKER: Then the gentleman asked for the yeas and nays, but before that question was put the gentleman from Massachusetts [Mr. McCormack] moved that the House adjourn, which was a preferential motion. The Chair put the question and the House did adjourn.

MR. RANKIN: And the gentleman from Mississippi [Mr. Williams] and I were asking for the yeas and nays and the Chair refused to put the question.

THE SPEAKER: The Chair has just tried to say to the gentleman that anyone can ask for the yeas and nays. The yeas and nays were not ordered. The gentleman from Massachusetts was within his rights and made a preferential motion to adjourn, and the House did adjourn.

### *When Untimely*

#### **§ 24.6 A demand for the yeas and nays comes too late after the Speaker has put the question on a motion, announced the result, and the House has proceeded to other business.**

8. Sam Rayburn (Tex.).

On Aug. 25, 1960,<sup>(9)</sup> the House had under consideration certain amendments remaining in disagreement between the two bodies with respect to a bill (H.R. 11390) making appropriations for the Department of Health, Education, and Welfare and the Department of Labor for the fiscal year 1961.

In the course of considering the amendments remaining in disagreement, Mr. John E. Fogarty, of Rhode Island, moved that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein. The proceedings were as follows:

MR. FOGARTY: . . . And I am sure the taxpayers are willing to pay for this kind of a program, because in the end it is going to save them money.

Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER:<sup>(10)</sup> The question is on the motion offered by the gentleman from Rhode Island.

The motion was agreed to.

THE SPEAKER: The Clerk will report the next amendment in disagreement.

MR. [JOHN] TABER [of New York]: Mr. Speaker, on that motion I call for the yeas and nays.

THE SPEAKER: Well, it appears to the Chair that the gentleman's request comes rather late. The Chair has al-

9. 106 CONG. REC. 17666-73, 86th Cong. 2d Sess.

10. Sam Rayburn (Tex.).

ready declared the motion agreed to and ordered the Clerk to report the next amendment in disagreement.

**§ 24.7 A demand for the yeas and nays on a motion to recommit comes too late after the Speaker has put the question on the motion, announced the result, and put the question on passage of the bill.**

On Apr. 28, 1966,<sup>(11)</sup> the House had under consideration a bill (H.R. 13881) to authorize the Secretary of Agriculture to regulate the transportation, sale, and handling of dogs, cats, and other animals intended to be used for purposes of research or experimentation, and for other purposes.

After the engrossment and third reading of the bill,<sup>(12)</sup> the following proceedings occurred:

MRS. [FRANCES P.] BOLTON [of Ohio]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:<sup>(13)</sup> Is the gentleman opposed to the bill?

11. 112 CONG. REC. 9230, 89th Cong. 2d Sess.

12. When the House votes affirmatively on the "engrossment and third reading" of a bill, it is voting on the measure's final language. An "engrossed bill," itself, is the final copy of the measure as passed by the House; it includes all amendments which emanated from the floor, and is certified to by the Clerk of the House.

13. John W. McCormack (Mass.).

MRS. BOLTON: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. Bolton moves to recommit the bill 13881 to the Committee on Agriculture.

The previous question was ordered.

THE SPEAKER: The question is on the motion to recommit.

The question was taken; and the Speaker announced that the yeas had it, and that the motion was not agreed to.

THE SPEAKER: The question is on passage of the bill.

For what purpose does the gentleman from New Jersey rise?

MR. [HENRY] HELSTOSKI [of New Jersey]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. HELSTOSKI: I would like to have the yeas and nays on the motion to recommit.

THE SPEAKER: The Chair will state that that stage has already been passed.

The question is now on the passage of the bill.

***Withdrawal of Demand***

**§ 24.8 When the demand for the yeas and nays has been supported by one-fifth of the Members present, it is too late for the Member making the demand to withdraw it.**

On May 26, 1960,<sup>(14)</sup> the House having under consideration a bill

14. 106 CONG. REC. 11304, 86th Cong. 2d Sess.

(H.R. 10128) to authorize federal financial assistance to the states for school construction, the Speaker put the question on a committee amendment as amended by the Committee of the Whole. Mr. Stewart L. Udall, of Arizona, then demanded the yeas and nays. A sufficient number of Members supporting this demand, the yeas and nays were ordered.

Immediately thereafter, a series of parliamentary inquiries were addressed to the Chair, there being some confusion as to the pending amendment. Mr. John W. McCormack, of Massachusetts, sought to clarify the matter through the following exchange:

MR. MCCORMACK: If the committee amendment as amended is adopted and a motion to recommit should be defeated then the bill is identically the same as the committee amendment as amended.

THE SPEAKER: <sup>(15)</sup> That is correct.

Mr. Udall then rose and initiated the following discussion with the Chair:

MR. UDALL: Since the vote on final passage will be the same as this vote I ask consent to withdraw my request.

THE SPEAKER: The Chair has already announced that a sufficient number of Members had arisen to order a rollcall.

Another parliamentary inquiry followed, and the question was ul-

timately taken by the yeas and nays.

## § 25.—When Not in Order

### *Following Initial Refusal*

#### **§ 25.1 A demand for the yeas and nays having been refused, a second demand following the denial of tellers is out of order.**

On Mar. 1, 1939,<sup>(16)</sup> the House voted to adopt the conference report on a bill (H.R. 2868) making deficiency appropriations for the fiscal year ending June 30, 1939. Immediately thereafter, the Speaker directed the Clerk to report those amendments remaining in disagreement between the two bodies. Among these was amendment No. 13, as to which Mr. Clifton A. Woodrum, of Virginia, offered a motion to recede and concur with an amendment.

Debate on the Woodrum proposal ensued after which the following occurred:

THE SPEAKER: <sup>(17)</sup> The question is on the motion of the gentleman from Virginia to recede and concur with an amendment.

The question was taken; and on a division (demanded by Mr. Woodrum of Virginia) there were—ayes 118, noes 96.

16. 84 CONG. REC. 2095, 2100, 2103, 76th Cong. 1st Sess.

17. William B. Bankhead (Ala.).

15. Sam Rayburn (Tex.).